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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/715,073	11/20/2000	James M. Cantonis	ACME SPONGE	8877

7590

06/09/2003

James C Wray
1493 Chain Bridge Road
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EXAMINER

COLE, LAURA C

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 06/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/715,073

Applicant(s)

CANTONIS, JAMES M.

Examiner

Laura C Cole

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 17-58 is/are rejected.
- 7) ☒ Claim(s) 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 April 2003 and 20 November 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

- 11) ☐ The proposed drawing correction filed on 22 April 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

DETAILED ACTION

Claim Objections

1. Claims 39-58 are objected to because of the following informalities:

Claim 39 is unclear and somewhat confusing as to what is being claimed. Are there six different portions, a top portion, a bottom portion, two end portions, and two side portions? Are there two pieces of material – each one having end portions and side portions or six separate pieces of material? Line 4 is especially confusing as it seems as if there are two sides "joined by" the top and bottom. How are they "joined"?

Claim 48 Line 2 recites the term "connections." It is not sure what kind of "connection" is required.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4-9, 15, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Martin et al., USPN 5,671,498.

Martin et al. discloses a scrubbing device that is an elongated wringable pad comprising a cover and absorbent material (Figure 1), at least one rectangular piece forming the cover (Column 5 Lines 64-66), plural holes within the piece (Column 5 Lines 44-47), and the pad of a sufficient length to wring, the holes are spaced on one-half inch

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centers (Column 5 line 46 discloses a hole size of 1/16 of an inch and therefore every eighth hole is one half inch interval from another), the absorbent material may be a poly sponge (Column 5 Lines 52-53), the at least one rectangular piece is two rectangular sheets (Column 3 Lines 52- 54) which has two opposite end edges and side edges (a rectangle must have opposite end edges and side edges), and a pocket formed by joints that are stitches (Column 6 Lines 17-25). Martin et al. discloses does not disclose a physical dimension for the scrubbing device. Martin et al. dose however provide a teaching that the cover may extend for a length to enable a human user to cleanse the back (Figure 19 and Column 9 Lines 41-60.) With this use, the length of the cover is *about* 37 1/4" and the width is *about* 6 1/4" or at least three times greater than the width of the pad.

3. Claims 39-56 are rejected under 35 U.S.C. 102(b) as being anticipated by Giallourakis, USPN 4,821,360.

Giallourakis discloses a polishing pad that comprises a cover that encloses an absorbent material (Figure 3 (2)), the cover further comprising first and second side portions (where the label (12) is located in Figure 2 is one side and there being an opposite side portion (where the label (8) is located in Figure 2), top and bottom portions (Figure 1), and first and second opposite end portions (shown in Figure 4, one end portion near the label (13)) having a complementary shape for fitting within the cover, and the cover having a plurality of openings (Figure 5). The openings are disposed on the top, bottom, sides, and ends of the cover (Column 3 Lines 35-40) as the fabric with the openings is used for the entire cover. The cover further comprises

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connections that are seams (Figure 2 (12), (14), (18)) that can be turned inside out as shown in Figure 3 to have inside seams for a smooth outer surface. The connections are on both or either side portion, the top and bottom portions, and one end portion (Figures 2 and 3). The other end portion "seam" comprises of an elastic member (Figure 4 (13)) that joins the end portion to the side portion, top portion, and bottom portion and forms a smooth outer surface.

In addition, the pad cover is formed of at least one rectangular piece (Column 2 Lines 38-41), plural holes in that piece (Figure 5), the pad being of a sufficient length to wring, the absorbent material is an elongated poly sponge (Column 2 Lines 12-13), wherein the at least one rectangular piece is an at least one rectangular sheet (Column 3 Lines 10-13 and Lines 36-38), the at least one rectangular sheet having has two opposite end edges and side edges (a rectangle must have opposite end edges and side edges), a pocket formed by joints along the edges (Column 3 Lines 24-26), the joints being seams formed by stitches (Column 3 Lines 18-20), the pocket has the seams inward facing and smooth outer surfaces (Column 2 Lines 28-30 provide that it can be sown but turned inside out so that the smooth surface is the outer surface), at least one rectangular sheet has folds medially between the end edges about an axis forming a pocket having equal halves joined along the side edges (Figures 1A and 2A), plural pieces form the cover (Column 2 Lines 38-41), and the cover completely encloses the absorbent material and edges are jointed to prevent the absorbent from slipping out (Figure 4 and Column 3 Line 52 to Column 4 Line 4). Further, the plural pieces are at least four rectangular pieces (Column 3 Lines 35-40 disclose that each of

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two sheets may have a double layer of material, which is a total of four sheets), connections for the four sheets being stitched seams in alignment along the two longer parallel side edges and end edge comprising a pocket (Column 3 Lines 40-46; Figure 2), where the pocket has the seams inward facing and smooth outer surfaces (Column 2 Lines 28-30 provide that it can be sown but turned inside out so that the smooth surface is the outer surface), the absorbent material to be inserted is an elongated poly sponge (Column 2 Lines 12-13), and the sheets are formed by connections prior to the insertion of the absorbent material (Column 3 Lines 48-51). Even further, Giallourakis discloses that an at least one rectangular sheet that has opposite end-edges and side-edges has a fold between the end edges about a medial axis forming a pocket having the adjacent edges joined to each other (Column 3 Lines 10-13, Lines 27-31; Figures 1 A and 2A).

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-3, 5-9, 17-19, and 21 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Sewell, USPN 3,083,392.

Sewell discloses a combination sponge and chamois that is an elongated (Figure 1) wringable pad that has a chamois cover (Figure 1 (3), Figure 2 (7), and Figure 3 (13)), at least one rectangular piece forming the cover (Figures 1-3), plural holes in the piece (Figure 1 (4); Figure 2 (11); Figure 3 (15)), the pad of a sufficient length to wring,

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an artificial sponge (which would include poly) (Figure 1 (2); Figure 2 (6); Figure 3 (12), the at least one rectangular piece is an at least one rectangular sheet which has two opposite end edges and side edges (a rectangle must have opposite end edges and side edges), a pocket is formed by joints along the edges for receiving and holding the absorbent material, where the joints are formed by stitches (Column 2 Lines 22-23), and plural chamois (also man-made chamois-like) pieces may form the cover (Figures 2 and 3).

The length and width is not specifically disclosed, however it appears in Figure 1 that the length is approximately three times greater than the width. It would have been obvious to one of ordinary skill in the art to modify the width or length of Sewell to provide the user with a sponge that can be gripped easily or to ergonomically clean narrow areas.

5. Claims 1, 5-11, 13, 14, 18, 22-23, 27-38, 57, and 58 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Giallourakis, USPN 4,821,360.

Giallourakis discloses all elements above however does not disclose the specific length and width although it appears in Figures 3 and 4 that the length is approximately three times greater than the width.

It would have been obvious to one of ordinary skill in the art to modify the width or length of Giallourakis to provide the user with a sponge that can be gripped easily or to ergonomically clean narrow areas.

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6. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Giallourakis, USPN 4,821,360.

Giallourakis discloses all elements mentioned above, however does not disclose that the fold is made medially between the side-edges. At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to make a medial fold along the side-edges instead of the end-edges because Applicant has not disclosed that folding the material along particular edges provides an advantage is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art furthermore, would have expected Applicant's invention to perform equally as well with the fold medially along the side edges because it will still form a pocket with three sides with stitched joints. Therefore it would have been obvious for one of ordinary skill in the art to modify '360 to obtain the invention as specified in claims 12 and 14.

7. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sewell, USPN 3,083,392.

Sewell discloses all elements mentioned above including the cover material being chamois, however does not disclose a sheep-skin chamois.

It would have been obvious to one of ordinary skill at the time of the invention was made to use sheep-skin chamois as a specific chamois cover material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious engineering choice. In re Leshin, 125 USPQ 416.

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8. Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giallourakis, USPN 4,821,360 in view of Hale, USPN 5,918,341.

Giallourakis discloses all elements mentioned above, however does not disclose a specific length or width dimension.

Hale discloses a hand-sized controlled-fold cleaning sleeve that provides the teaching for a hand held wiping or cleaning device, the approximate size required would be 4 inches wide by 9 inches long (Column 3 Lines 27-32).

It would have been obvious to one of ordinary skill in the art to modify the size of the pad disclosed by Giallourakis and to use pieces of *about* 9 ½" in length and *about* 6 ¼" in width as Hale teaches to make the pad an appropriate and ergonomic size to be hand held.

9. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Giallourakis, USPN 4,821,360 in view of Sewell, USPN 3,083,392.

Giallourakis discloses all elements mentioned above, however does not disclose a using a chamois material. Giallourakis however does disclose that it is desirable to use a soft nonabrasive fabric (Column 1 Lines 13-14.)

Sewell discloses a chamois cover (Column 1 Lines 13-16.)

It would have been obvious to one of ordinary skill at the time of the invention was made to use chamois, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious engineering choice. In re Leshin, 125 USPQ 416.

Applicants Arguments

10. In the response, Paper No. 4 received 22 April 2003, Applicant argues:

A. Sewell does not teach or suggest a pad with a cover enclosing an absorbent material with the cover having holes for expressing contents from the pad.

B. Martin provides "a mildly abrasive working surface" that has nothing to do with the claimed invention.

C. Martin does not describe, teach, or suggest an elongated wringable pad that has an absorbent material enclosed within a cover and the cover having holes for expressing contents of the absorbent material.

D. Giallourakis does not describe, teach, or suggest an elongated wrinagble pad that has an absorbent material enclosed within a cover and the cover having holes for expressing contents of the absorbent material.

E. Hale has nothing to do with the claimed invention which provides a cover having lengths much greater than a width.

F. There is no showing that there is a teaching or suggestion to adapt the Giallourakis removable sponge within the Hale foldable sleeve.

G. Giallourakis requires a non-abrasive polishing cloth while Martin requires a mildly abrasive working surface mesh cover.

Response to Arguments

11. Applicant's arguments filed 22 April 2003 have been fully considered but they are not persuasive.

A. As disclosed above, Sewell discloses a pad with a cover enclosing an absorbent material having "holes" for expressing contents from the pad. Applicant argues that the cover does not *enclose* the sponge (such as Figures 1 and 2 illustrate, however Figure 3 shows an enclosing cover), however it is not claimed that the cover must enclose the sponge. Further, holes are defined as "A hollowed place in something solid; a cavity or pit" (The American Heritage® Dictionary of the English Language, Fourth Edition, Copyright © 2000 by Houghton Mifflin Company). The "tubes" or "passageways" (Figure 2 (11), Figure 3 (15)) are holes.

B. In response to applicant's argument that Martin teaches mesh openings (mesh holes) create "a mildly abrasive working surface" (for removing scales/dried skin), a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

C. As disclosed above, Martin discloses a pad with a cover enclosing an absorbent material having "holes" for expressing contents from the pad. It is not claimed that the cover must enclose the sponge, however Martin does disclose this. Further, holes are defined as "A hollowed place in something solid; a cavity or pit" (The

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American Heritage® Dictionary of the English Language, Fourth Edition, Copyright © 2000 by Houghton Mifflin Company). The mesh outer covering are “holes.”

In response to applicant's argument that the device of Martin is not a wringable pad, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

D. As disclosed above, Giallourakis discloses a pad with a cover enclosing an absorbent material having “holes” for expressing contents from the pad. It is not claimed that the cover must enclose the sponge, however Giallourakis does disclose this. Further, holes are defined as “A hollowed place in something solid; a cavity or pit” (The American Heritage® Dictionary of the English Language, Fourth Edition, Copyright © 2000 by Houghton Mifflin Company). The loosely knit outer covering contain “holes.”

In response to applicant's argument that the device of Giallourakis is not a wringable pad, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as

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compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

12. Applicant's arguments E and F, see Page 18 Lines 11-23, filed as Paper No. 4 on 22 April 2003, with respect to Claim 16 have been fully considered and are persuasive. The rejection of claim 16 has been withdrawn.

13. Applicant's argument G, see Page 20 Line 21 to Page 21 Line 7, filed as Paper No. 4 on 22 April 2003, with respect to the rejection(s) of claim(s) 24 and 25 under *Giallourakis* and *Martin* have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of *Giallourakis* and *Hale* (see above.)

Allowable Subject Matter

14. Claim 16 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C Cole whose telephone number is (703) 305-7279. The examiner can normally be reached on Monday-Thursday, 7am - 4:30pm, alternating Fridays.

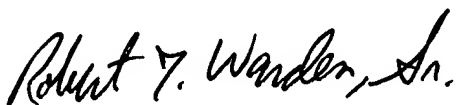
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Warden can be reached on (703) 308-2920. The fax phone numbers for the organization where this application or proceeding is assigned are (703)

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746-8772 for regular communications and (703) 873-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

LCC
LCC
June 3, 2003


ROBERT J. WARDEN, SR.
SUPERVISORY PATENT EXAMINER
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